

Amendment 39

To the Contract for the Design, Implementation, Operation and Maintenance of the Regional Fare Coordination System

This Amendment 39 to the Contract for the Design, Implementation, Operation and Maintenance of the Regional Fare Coordination System is entered into this 12TH day of JUNE, 2009, by and between ERG Transit Systems (USA) Inc, a California corporation and wholly owned subsidiary of ERG Limited, an Australian corporation, (hereinafter referred to as the "Contractor") and each of the following seven public transportation agencies (hereinafter referred to individually as an "Agency" or collectively as the "Agencies"):

1. Central Puget Sound Regional Transit Authority ("Sound Transit")
2. King County ("King County")
3. Kitsap County Public Transportation Benefit Area ("Kitsap Transit")
4. Pierce County Public Transportation Benefit Area ("Pierce Transit")
5. Snohomish County Public Transportation Benefit Area ("Community Transit")
6. City of Everett ("Everett")
7. State of Washington, acting through the Washington State Department of Transportation, Washington State Ferries Division ("WSF")

Recitals

- A. Effective April 29, 2003, each of the Agencies and the Contractor entered into Contract #229944 (the "Contract") to implement a Regional Fare Coordination System (the "RFC System") to establish a common fare system utilizing smart card technology. The Contractor is responsible for the development, implementation, operation and maintenance of the RFC System as specified in the Contract. Capitalized terms not otherwise defined in this Amendment shall have the meaning set forth in the Contract.
- B. In connection with the Contractor's proposed corporate restructuring arrangement, it is necessary to substitute Vix ERG Pty Ltd for ERG Limited as the guarantor under the Guaranty relating to the Contract. The Agencies are willing to permit the Contractor to make such substitution on the terms and conditions set forth in this Amendment.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the sufficiency of which is hereby acknowledged, the Parties hereby agree to amend the Contract as follows:

Section 1.0

Exhibit 3 of the Contract is hereby deleted in its entirety and replaced with the document attached as Exhibit A hereto.

Section 2.0

Section 2.1-1.2 of the Contract is hereby deleted in its entirety and replaced with the following:

1.2 The Contractor is wholly owned and controlled by its parent corporation, Vix ERG Pty Ltd, an Australian corporation. As a condition of this Contract, the Contractor shall deliver a Guaranty in the form attached as Exhibit 3 hereto and made a party hereof (the "Guaranty") executed by one or more duly authorized representatives of Vix ERG Pty Ltd. Pursuant to the Guaranty and effective as of the date of this Contract, Vix ERG Pty Ltd shall be fully liable for all obligations of the Contractor under this Contract and shall guaranty the performance of all Contractor obligations under this Contract. Not more frequently than once every 6 months, the Guarantor will supply to the Agencies an unaudited balance sheet and profit and loss statement, and annually an audited group consolidated account prepared in accordance with Australian accounting standards. .

Section 3.0

Section 3.1-64.10.1 of the Contract is hereby deleted in its entirety and replaced with the following:

64.10.1 The Contractor shall not assign or effectively transfer any interest, obligation or benefit in this Contract to a different entity, whether by sale of assets or stock, merger with another entity, assignment or novation, without prior written consent by the Agencies which shall not be unreasonably withheld; provided, however, that claims for money due or to become due to the Contractor from the Agencies under this Contract may be assigned to a bank, trust company or other financial institutions without such approval. Notice of any claim assignment shall be furnished promptly to the Agencies and shall include a copy of the signed agreement between the Contractor and the Assignee.

Section 4.0

Section 3.1-66.3 of the Contract is hereby deleted in its entirety and replace with the following:

66.3 In addition to termination for convenience, the Agencies may terminate this Contract, in whole or in part, for default and may enforce their rights under the Guaranty (1) if the Contractor fails to perform or comply with any material provision of the Contract and does not cure that failure in accordance with the cure provisions and timeframe set forth in this Section 66.3 (a Non-Insolvency

Default") or (2) if the Contractor or its parent corporation becomes insolvent, makes a general assignment for the benefit of creditors, files a voluntary petition of bankruptcy, suffers or permits the appointment of a receiver for its business or assets, or becomes subject to any proceeding under any bankruptcy or insolvency law, whether domestic or foreign, or has wound up or liquidated its business voluntarily or otherwise. The Contract Administrator may, at his/her sole discretion, provide the Contractor with a written notice of default that does not terminate the Contract. Such a non-terminating default notice is not a prerequisite to issuing a notice of termination nor shall its issuance be deemed to suspend or otherwise limit the Agencies' rights to terminate the Contract. To effect termination under this Section 66.3, the Contract Administrator shall serve a notice of termination, in person or by certified mail (return receipt requested), on the Contractor's contact person specified in Section 3.I-73 or registered agent in the State of Washington, setting forth the manner in which the Contractor is in default and the effective date of termination. Notice by mail shall be deemed served three (3) days after mailing as provided above. If the basis for termination is a Non-Insolvency Default for a failure to perform that can be cured, the termination shall not take effect so long as the Contractor either (1) cures the default within ten (10) days of service of the notice, or (2) provides within said ten (10) days a plan of action to cure the Non-Insolvency Default within thirty (30) days of service of the termination notice and then cures the Non-Insolvency Default within said thirty (30) days. The Contractor will only be paid for goods delivered and accepted in accordance with the Contract prior to the date of termination, or services performed in accordance with the Contract prior to the date of termination, less any damages to the Agencies caused by the Contractor's failure to perform or such other occurrence that is grounds for default termination under this Section 66.3. All termination payment requests by the Contractor are subject to such cost/price analysis as is necessary to enable the Agencies to comply with the requirements of applicable law, FTA Circular 4220.1D and/or as is required under Section 3.I-33, "Contract Claims" and Section 3.I-34, "Dispute Review Board" to determine reasonableness and compliance with the Contract and applicable laws and regulations.

Section 5.0

All other provisions of the Contract not referenced in this Amendment Thirty-nine shall remain in effect.



IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 39 to Contract #229944 as of the date set forth below its signature.

ERG Transit Systems (USA) Inc.

By: [Signature]
Its: EXECUTIVE DIRECTOR

Date: 15 MAY 2009

[Signature]
15/5/09

Central Puget Sound Regional Transit Authority

By: _____
Its: _____
Date: _____

King County

By: _____
Its: _____
Date: _____

Pierce County Public Transportation Benefit Area

By: _____
Its: _____
Date: _____

Washington State Ferries, Washington State Department of Transportation

By: _____
Its: _____
Date: _____

City of Everett

By: _____
Ray Stephanson, Mayor, or His Designee
Date: _____

ATTEST:

By: _____
Sharon Marks, City Clerk
Date: _____

APPROVED AS TO FORM:

By: _____
Everett City Attorney
Date: _____

Kitsap County Public Transportation Benefit Area

By: _____
Its: _____
Date: _____

Snohomish County Public Transportation Benefit Area

By: _____
Its: _____
Date: _____



IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 39 to Contract #229944 as of the date set forth below its signature.

ERG Transit Systems (USA) Inc.

By: [Signature]
Its: EXECUTIVE DIRECTOR

Date: 15 MAY 2009

[Signature]
15/5/09

Central Puget Sound Regional Transit Authority

By: [Signature]
Its: Deputy CEO
Date: 6/12/09

King County

By: _____
Its: _____
Date: _____

Pierce County Public Transportation Benefit Area

By: _____
Its: _____
Date: _____

Washington State Ferries, Washington State Department of Transportation

By: _____
Its: _____
Date: _____

City of Everett

By: _____
Ray Stephanson, Mayor, or His Designee
Date: _____

ATTEST:

By: _____
Sharon Marks, City Clerk
Date: _____

APPROVED AS TO FORM:

By: _____
Everett City Attorney
Date: _____

Kitsap County Public Transportation Benefit Area

By: _____
Its: _____
Date: _____

Snohomish County Public Transportation Benefit Area

By: _____
Its: _____
Date: _____



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ERG Transit Systems (USA) Inc.

By: [Signature]
Its: EXECUTIVE DIRECTOR

Date: 15 MAY 2009

[Signature]
15/5/09

Central Puget Sound Regional Transit Authority

By: _____
Its: _____
Date: _____

King County

By: [Signature]
Its: SM
Date: 6/1/09

Pierce County Public Transportation Benefit Area

By: _____
Its: _____
Date: _____

Washington State Ferries, Washington State Department of Transportation

By: _____
Its: _____
Date: _____

City of Everett

By: _____
Ray Stephanson, Mayor, or His Designee
Date: _____

ATTEST:

By: _____
Sharon Marks, City Clerk
Date: _____

APPROVED AS TO FORM:

By: _____
Everett City Attorney
Date: _____

Kitsap County Public Transportation Benefit Area

By: _____
Its: _____
Date: _____

Snohomish County Public Transportation Benefit Area

By: _____
Its: _____
Date: _____



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ERG Transit Systems (USA) Inc.

By: [Signature]
Its: EXECUTIVE DIRECTOR

Date: 15 MAY 2009

[Signature]
15/5/09

Central Puget Sound Regional Transit Authority

By: _____
Its: _____
Date: _____

King County

By: _____
Its: _____
Date: _____

Pierce County Public Transportation Benefit Area

By: [Signature]
Its: CEO
Date: 6/10/09
WF

Washington State Ferries, Washington State Department of Transportation

By: _____
Its: _____
Date: _____

City of Everett

By: _____
Ray Stephanson, Mayor, or His Designee
Date: _____

ATTEST:

By: _____
Sharon Marks, City Clerk
Date: _____

APPROVED AS TO FORM:

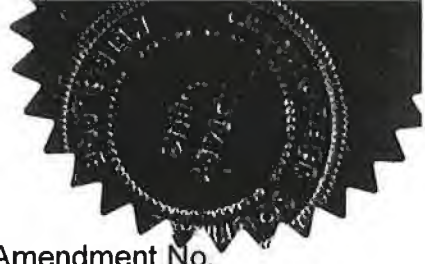
By: _____
Everett City Attorney
Date: _____

Kitsap County Public Transportation Benefit Area

By: _____
Its: _____
Date: _____

Snohomish County Public Transportation Benefit Area

By: _____
Its: _____
Date: _____



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ERG Transit Systems (USA) Inc.

By: [Signature]
Its: EXECUTIVE DIRECTOR

Date: 15 MAY 2009

[Signature]
15/5/09

Central Puget Sound Regional Transit Authority

By: _____
Its: _____
Date: _____

King County

By: _____
Its: _____
Date: _____

Pierce County Public Transportation Benefit Area

By: _____
Its: _____
Date: _____

Washington State Ferries, Washington State Department of Transportation

By: [Signature]
Its: Assist. Sec. For WSF
Date: 6-12-09

City of Everett

By: _____
Ray Stephanson, Mayor, or His Designee
Date: _____

ATTEST:

By: _____
Sharon Marks, City Clerk
Date: _____

APPROVED AS TO FORM:

By: _____
Everett City Attorney
Date: _____

Kitsap County Public Transportation Benefit Area

By: _____
Its: _____
Date: _____

Snohomish County Public Transportation Benefit Area

By: _____
Its: _____
Date: _____



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ERG Transit Systems (USA) Inc.

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Its: EXECUTIVE DIRECTOR

Date: 15 MAY 2009

[Signature]
15/5/09

Central Puget Sound Regional Transit Authority

By: _____
Its: _____
Date: _____

King County

By: _____
Its: _____
Date: _____

Pierce County Public Transportation Benefit Area

By: _____
Its: _____
Date: _____

Washington State Ferries, Washington State Department of Transportation

By: _____
Its: _____
Date: _____

City of Everett

By: [Signature]
Ray Stephanson, Mayor, or His Designee
Date: 6-8-09

ATTEST:

By: [Signature]
Sharon Marks, City Clerk
Date: _____

APPROVED AS TO FORM:

By: [Signature]
Everett City Attorney
Date: _____

Kitsap County Public Transportation Benefit Area

By: _____
Its: _____
Date: _____

Snohomish County Public Transportation Benefit Area

By: _____
Its: _____
Date: _____



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ERG Transit Systems (USA) Inc.

By: [Signature]
Its: EXECUTIVE DIRECTOR

Date: 15 MAY 2009

[Signature]
15/5/09

Central Puget Sound Regional Transit Authority

By: _____
Its: _____
Date: _____

King County

By: _____
Its: _____
Date: _____

Pierce County Public Transportation Benefit Area

By: _____
Its: _____
Date: _____

Washington State Ferries, Washington State Department of Transportation

By: _____
Its: _____
Date: _____

City of Everett

By: _____
Ray Stephanson, Mayor, or His Designee
Date: _____

ATTEST:

By: _____
Sharon Marks, City Clerk
Date: _____

APPROVED AS TO FORM:

By: _____
Everett City Attorney
Date: _____

Kitsap County Public Transportation Benefit Area

By: [Signature]
Its: Executive Director
Date: 6/3/09

Snohomish County Public Transportation Benefit Area

By: _____
Its: _____
Date: _____



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ERG Transit Systems (USA) Inc.

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Its: EXECUTIVE DIRECTOR

Date: 15 MAY 2009

[Signature]
15/5/09

Central Puget Sound Regional Transit Authority

By: _____
Its: _____
Date: _____

King County

By: _____
Its: _____
Date: _____

Pierce County Public Transportation Benefit Area

By: _____
Its: _____
Date: _____

Washington State Ferries, Washington State Department of Transportation

By: _____
Its: _____
Date: _____

City of Everett

By: _____
Ray Stephanson, Mayor, or His Designee
Date: _____

ATTEST:

By: _____
Sharon Marks, City Clerk
Date: _____

APPROVED AS TO FORM:

By: _____
Everett City Attorney
Date: _____

Kitsap County Public Transportation Benefit Area

By: _____
Its: _____
Date: _____

Snohomish County Public Transportation Benefit Area

By: [Signature]
Its: Acting CEO
Date: 6/8/09